

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ON ANTIGUA & BARBUDA

CASE ANUHCR 2017/0055

REGINA

V

MERYL CHIDDICK

APPEARANCES

Mr Curtis Cornelius for the Crown.

Mr Andrew Okola for the defendant

2019: APRIL 15

SENTENCE

For murder

- 1 **Morley J:** Meryl 'Tula' Chiddick, whose date of birth appears to be 29.11.55, so that he is now 63, falls to be sentenced for the murder of Conroy 'Laro' Andrew on 10.11.14 at about 3.15pm on a farm in Patterson, near Liberta, of which he was convicted by a jury on 18.12.18 following a trial taking 19 days in which the court considered evidence from 31 witnesses with 28 exhibits.
- 2 Sentence should have been passed on 30.01.19, but has been delayed, owing to a late pre-sentence report, and thereafter defence counsel being thrice required off-island, on 26.02.19, 01.03.19, and 09.04.19.

- 3 The jury's verdict, considering the precise directions given to them in the summing up, means they were sure that the defendant Chiddick, then 58, not acting in self-defence, shot Laro, described by witnesses as a 'rastaman' farmer, through the left side of his head with an old 0.25 pistol from 19ft, killing him instantly, when Chiddick was looking to steal cannabis from Laro's farm and had been confronted by him.
- 4 Chiddick had recruited Aundrey Joseph, (dob 08.08.95, then 18, with learning difficulty, and who gave lengthy Queen's evidence following a plea to manslaughter), to look among farms to steal cannabis that day. They had taken a bus from St Johns to Swetes, alighted by the Wesleyan church, and set off on foot, at first on a dirt road, then across country, south. During their long walk in the bush, Chiddick took the pistol from his pocket and loaded it in Joseph's presence. Their progress toward Laro's farm was observed by a farmer, 'Moses', recognising Chiddick (who has a distinctive long beard), noting he was with a younger man unknown to him, and through another's phone, belonging to 'Cheeks', raised the alarm with Laro by phone, who was warned specifically that Chiddick was coming. On entering onto Laro's farm area, being on a steep slope, Joseph said (as recorded in his police Q&A interview on 12.02.16):

Q When you saw the rastaman what did Tula do?

A Me see Tula pull the gun and the rastaman come at us with a long cutlass. The rastaman was at his little bush house on the hill and the rastaman say 'who that', and then me see Tula tie a wash rag around his beard and one around his face from his nose down. Tula walk up to the man, tell the man to back off, and Tula bust ah shot in the air, and the man keep coming, and Tula fire ah shot again, and then me see the man drop ah ground and start to roll. Me ask he if he kill the man and he say yea, yea, come, come.

- 5 Both made their way to another farm near Liberta, though nothing was taken as Chiddick told Joseph he had no more ammunition if confronted, and so both walked through the bush back to Swetes, caught the bus back to St Johns, where they went to their homes near each other in George St, Green Bay. Chiddick was known to Laro's family, and had threatened verbally to shoot Laro in about March 2014 when confronted on a previous occasion. Being immediately a

- prime suspect, he was arrested early on 11.11.14, made no admissions, and was released owing to lack of evidence. He then threatened Joseph to say nothing, and the case went cold.
- 6 In about September 2015, Chiddick's neighbour, Tevin Willock, chased a chicken under a house in Green Bay previously owned by Chiddick and found wrapped in cloth the 0.25 pistol with ammunition. He was confronted by Chiddick to return it but pretended not to have it. However, on a later date he discharged, it, drawing police attention and was arrested in possession of it in late 2015. Ballistic analysis showed the bullet recovered from Laro's body had come from the gun, and so Willock confessed to who owned it, pointing to Chiddick. This meant that the case was re-opened, and Chiddick was arrested on 10.02.16. So too was Aundrey Joseph, as a result of intelligent police analysis of who among those who knew Chiddick might fit the description of the young man seen in his company on 10.11.14. At first, Joseph told many lies, pretending to know nothing of the murder, but on 12.02.16 at Longfords police station was identified by the bus driver who had taken him to Swetes with Chiddick that morning. Thereafter, encouraged by his mother, Joseph explained at length to police what had happened. Though Chiddick continued to deny knowledge of the event, both were charged with murder, remanded in custody, and on 23.02.18, a plea to manslaughter was provisionally accepted by the Crown from Joseph, who was bailed, in exchange for testimony against Chiddick. Joseph will be sentenced separately for manslaughter in May 2019.
- 7 From all accounts, Laro was an easy-going personality, much loved by his wife Denise, and children Laresha, Denisha, Damien, and Laron. It was his sons who found him in the dark, lifeless on his farm, while his wife then collapsed when she heard the news on the phone. Today, on 15.04.19, Mrs Andrew has given moving evidence as a victim impact statement, describing the family's loss; how an elderly cousin passed on learning of the murder; Laro's mother passed soon after; Larisha still cries daily, and this stress is said to be the cause of a tragic recent miscarriage; grandchildren have been born without their grandfather to welcome them; it has been hard for their close-knit family, in a community which has not a bad word about Laro, who she imagines rejoicing in the Heavens today as Liberta football club, where he was coach, has recently won the cup. They were married 18 years, and she greatly misses her husband.

- 8 Chiddick has previous convictions. He has various convictions for possession of cannabis in 1974 and 1977, which though relevant, I ignore owing to their age. There is also larceny of a radio in 1977 for which he received six months and wounding in 2004 for which he was fined. Of importance is that in 1988, for shooting with intent to cause grievous bodily harm, of it seems a love rival, he received five years hard labour. This is a highly relevant conviction, which shows he is not unfamiliar with shooting a person, and in combination with the threat to shoot Laro in March 2014, will affect the court's approach to his sentence for murder.
- 9 Otherwise, his personal circumstances are unremarkable, He has grown up children, has never been in a settled family relationship, has no job skills, and has been described by his son and by Joseph as a person who takes 'crack' cocaine. In the pre-sentence report of 22.02.19, he admits to selling and growing cannabis in the past, to frequent police raids, and to maintaining his innocence.
- 10 As to the sentence for murder, under **s2 Offences against the Person Act** cap 300, passed first as long ago as 1873, the maximum penalty is capital punishment, though in this case is not sought by the Crown. I will not sentence Meryl Chiddick to death.
- 11 I have chosen to be assisted in my approach to sentence by the approach taken to sentences for murder in the sister Common Law jurisdiction of England and Wales. Considering **schedule 21 Criminal Justice Act 2003**, under s5 for murder with a firearm the starting point is a minimum term of 30 years (all of which is served). Under s10 it is an aggravating feature of the offence if there was a significant degree of planning or premeditation, and under s11 is a mitigating feature of the offence if there was a lack of premeditation and/or there was only an intention to cause serious harm.
- 12 In constructing this sentence it needs to be explained that in England and Wales, for murder the sentence is termed 'mandatory life imprisonment', though the judge must set a *minimum term* to be served before a defendant might begin to be considered for possible parole. However, there is no clearly regulated parole mechanism on Antigua, so that if 'life imprisonment' is passed, this could be expected to mean a whole life term with no prospect of release. For determinate sentences, (ie sentences calculated as a specific number of years), there is on Antigua automatic

- remission of one-third for good behavior. I consider that, if I am to be assisted by the CJA 2003, I should take account of automatic remission, so as properly to calculate the equivalent here of a minimum term there.
- 13 Moreover, I have researched case precedent within the jurisdiction of the Eastern Caribbean Supreme Court. This shows that, absent capital punishment, I must decide between a sentence of life imprisonment, meaning Chiddick will not be considered for release, or a determinate sentence of a fixed number of years, of which Chiddick will serve two-thirds before being eligible for remission if of good behaviour.
- 14 Reflecting on the facts in this case, I find neither aggravation nor mitigation under the CJA schedule: though not particularly a planned murder, Chiddick went armed ready to use the gun if he thought needed, having warned Laro in March 2014 that he may kill him if there is a further encounter; and it cannot be said he was only intending to cause serious harm, not death, as the bullet went through Laro's head, so that when it was discharged, Chiddick can properly be said to have been indifferent to the consequence, whether death or serious injury, so that he can be deemed to have intended both and either whatever the outcome. There being neither aggravation nor mitigation under the schedule, the starting point remains a minimum term of 30 years.
- 15 However, turning to features pertaining not to the offence but to the offender, his previous conviction for shooting with intent in 1988 raises the question, as a seriously aggravating feature, whether Chiddick might attract a whole life sentence, having previously been convicted of a similarly serious matter, though death did not occur. Yet the circumstances were different, being a love rivalry, there was a plea of guilty, and the offence was more than 30 years ago now. Weighing its age and differences, I take the view the sentence need not be elevated to life imprisonment without the possibility of release, but instead the sentence should be increased by six years to a minimum term of 36 years.
- 16 Such a minimum term is to be served in the local jail in St Johns. Defence counsel has specifically invited that the harsh conditions there can properly mitigate the sentence. As I have observed when passing sentence for murder on *Errol Barnes* on 08.06.17 and on *Steve Urlings* on

24.07.17, I have visited the prison on Antigua, having done so annually, now three times in Decembers 2016, 2017, and 2018. The prison staff do excellent work in very difficult circumstances. The prison is called '1735', as that is when it was ground first used for custody. The facilities appear to date back to the 19th Century, more in keeping with 150 years ago, rather than the 21st century. Facilities are rudimentary. The prison is overcrowded. Remandees are often twelve to a cell with only six beds, allowed out often for only about six hours a day. Convicted prisoners in another section of the prison are in small cells and allowed out only during daylight hours, (oddly for longer than the remandees who are unconvicted, innocent until proven guilty). In the overcrowding, there is potential for the spread of disease. There is an outside bank of toilets into a pit under corrugated iron, about 30m from the kitchens. During lockdown, urination and defecation are into plastic buckets, lacking any privacy and requiring morning slopping out. I consider these conditions to be far more difficult than in a UK prison, for which there minimum terms have been calculated, and consequently there should be a further reduction in the minimum term here to allow for the fact it is to be served in far harsher conditions.

17 I assess these harsher conditions merit a reduction from a UK sentence of roughly, though not mathematically precisely, one-quarter, which for the purposes of this case will mean eight years, so that the minimum term of 36 years to be served in '1735', is to be reduced 28 years.

18 Turning then to how to effect a minimum term of 28 years on Antigua, I take account of automatic remission, meaning that 28 years should be considered two-thirds of the sentence. This means that the correct sentence, to effect a minimum term of 28 years, is 42 years' imprisonment.

19 I should add that I am conscious that Chiddick is now 63, and that a sentence of 42 years, taking into account time served since his remand on 10.02.16, will likely mean he is not eligible for remission before he is 89, making it a distinct possibility he will die in jail. The question arises whether I should therefore factor in his age and reduce the sentence to create a greater likelihood of release before he dies. I have considered this carefully. On the one hand, he is becoming an old man. On the other, he knows full well the scale of the wrong he committed, being a man of many years' adult experience, and it might be said that if at 58 he brings a gun to raid cannabis and shoots a farmer, having warned he might, when previously convicted of shooting another, he could and did expect his actions may mean he will not get out of jail.

- 20 There is no credit available for plea.
- 21 I have considered, given his age and length of incarceration, he is not so dangerous as to elongate his sentence further for the protection of the public, or at least, more accurately, will not be, if being considered for release in his late 80s.
- 22 Time served will count, to be calculated by the prison.
- 23 Considering ancillary orders, I order the gun destroyed. I have given consideration to whether I can order the two-storey house owned by Chiddick on George St confiscated as possibly some small measure of compensation, (though none can ever be enough), and signed over to Denise Andrew. However, assisted by Crown Counsel Cornelius, it seems I cannot: the house not being a proceed of the crime, I can only order a sum of money as compensation, which would be large, requiring sale of the house, and one anticipates would not be paid, against a maximum period of six months imprisonment in default of payment, which no doubt would be served instead rather than that the house be sold, and thereafter the compensation may not be actionable. If I could, I would have ordered the house signed over, but I cannot, and leave its seizure as a possible remedy in separate civil proceedings, if brought, for damages for the loss Chiddick has caused. It may be the Legislature will want to address this lacuna in sentencing power.
- 24 *Meryl Chiddick, please stand up.* For the reasons I have explained, the sentence of this court for the murder on 10.11.14 of Conroy 'Laro' Andrew is 42 years imprisonment. Time served on remand will count. You may go down.

The Hon. Mr. Justice Iain Morley QC

High Court Judge

15 April 2019